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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,087	09/26/2003	Norman W. Gavin	34814-10107 DIV	7060
2574	7590	06/15/2004	EXAMINER	
JENNER & BLOCK, LLC ONE IBM PLAZA CHICAGO, IL 60611			GLESSNER, BRIAN E	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,087

Applicant(s)

GAVIN, NORMAN W.

Examiner

Brian E. Glessner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 is/are allowed.
- 6) ☒ Claim(s) 5-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (3,884,008).

In regard to claim 5, Miller discloses a bracket comprising a flat top portion 22, said flat top portion including at least one aperture 30 formed therein, said flat top portion defining tapered sides (figure 4) about said aperture to define at least one gripping web, at least one sidewall 24 extending from said planar surface, a flange 14 parallel to said flat top portion extending from said at least one sidewall, said flange adapted to be connected to a form wall.

In regard to claim 7, Miller discloses the claimed invention, wherein said bracket includes two sidewalls 24 diverging from said flat top wall, each said sidewall having a flange 14 projecting therefrom and adapted to be secured to a form wall.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (3,884,008).

In regard to claim 6, Miller discloses the claimed invention except for specifically disclosing that said flat top portion includes two apertures having tapered sides that form gripping webs. Miller only teaches the use of one aperture with tapered sides and a gripping web. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a second aperture having tapered sides and a gripping web into Miller's invention, because by having a second aperture, one could place two fasteners into the device. Therefore, one would not have to use two inserts for two fasteners. This would save time and money. Finally, it has been held that the mere duplication of the essential working parts of a device is within the level of one having ordinary skill in the art.

In regard to claim 8, Miller discloses the basic claimed invention, wherein said bracket includes two sidewalls 24 diverging from said flat top wall, each said sidewall having a flange 14 projecting therefrom and adapted to be secured to a form wall.

In regard to claims 9 and 10, Miller discloses the claimed invention except for specifically disclosing that said gripping web comprises plural gripping webs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use plural gripping webs in place of one gripping web, since the examiner takes the position that one or two gripping webs are equivalent for their use in the gripping web art and the selection of any of these known equivalents to hold the post or fastener in place would be within the level of one having ordinary skill in the art.

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In regard to claim 11, Miller discloses the basic claimed invention except for disclosing the use of a sighting aperture located between the two apertures having gripping webs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate as many additional apertures into the device as needed, since the mere duplication of the essential working parts of a device is within the level of one having ordinary skill in the art.

Allowable Subject Matter

5. Claims 1-4 are allowed.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Roth, Taft, Wiegand, Sr., Farrell, Hinkle et al., McIntosh et al., Tracy, Borresen et al., Marsden, Campbell et al., Stetson, Gilsdorf, Ryan et al., Barton et al., Bowman, Haga and Hirata.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Glessner whose telephone number is 703-305-0031. The examiner can normally be reached on Monday-Friday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

B.G.
June 8, 2004

A handwritten signature in cursive script, appearing to read "Brian E. Glessner", written in black ink.

BRIAN E. GLESSNER
PRIMARY EXAMINER